

## REMARKS

### INTRODUCTION

In accordance with the foregoing, claim 1, 9, 15, 16, 21, 22 and 23 have been amended. No new matter has been submitted, and reconsideration of the allowability of the pending claims is respectfully requested.

Claims 9, 11, 12, 14, 19, 23, 25, 26 and 28 have been indicated as including allowable subject matter. Accordingly, claims 9 and 19 have been amended into independent form. Allowance of claims 9 and 19 is respectfully requested.

Claims 1-28 are pending and under consideration.

### REJECTION UNDER 35 USC 102

Claims 1-8, 10, 13, 15-18, 20-22, 24, 27 and 29 stand rejected under 35 USC § 102(e) as being anticipated by Burns et al., U.S. Patent No. 6,662,135. This rejection is respectfully traversed.

The Office Action indicates that Burns et al. discloses all the claimed features of independent claims 1, 15 and 16. Applicants respectfully disagree.

Burns et al. sets forth a method and apparatus for testing a single cable modem by using a reflector connected to the cable connector of the cable modem. The reflector reflects an output upstream signal from the cable modem back to the cable modem, with an upconverted frequency to be detectable by the cable modem. See FIGS. 3-6 of Burns et al.

In addition, as illustrated in FIG. 10, Burns et al. further indicates that a spectrum analyzer can be included with the reflector to evaluate the upconverted frequency signal reflected by the reflector, which will include multiple reflections at defined multiples.

Thus, Burns et al. is directed toward an improved method and apparatus for testing a cable modem by connecting the particular modem to a particular reflector.

Conversely, independent claims 1, 15 and 16 each particularly identify the availability of a plurality of "nodes," with the Office Action having been interpreted as a node corresponding to a cable modem, and indicates that one of the nodes is "selectively connected" or "selectively tested" from among the plurality of nodes, i.e., the independent claims require that the testing or connection must be selectable from more than a single node, e.g., from the plurality of nodes.

Burns et al. fails to disclose or suggest this "selectively" connected or tested feature, as the cable modem in Burns et al. is always connected to the same reflector. There is not any

selecting, or capability therefor, being performed in Burns et al.

In addition, it is respectfully submitted that that with the aforementioned "selectively" connected or tested amendment, the claimed invention as a whole should be more clear, and its differentiation from Burns et al. more apparent. It is respectfully submitted that Burns et al. fails to disclose or suggest the presently claimed invention, as a whole.

Further, it is respectfully submitted that it would not have been obvious to modify Burns et al. to selectively connect or test a node, out of a plurality of nodes, as well as perform or include the remaining features recited in the independent claims. Burns et al. is directed toward a simplified method of testing a single cable modem, without the required in-depth conventional methods of testing of the cable modem performed at the manufacturer. See Burns et al. in col. 2, lines 41-62.

It is further noted that independent claims 1, 15 and 16 particularly refer to a defined channel plan, a test plan based on the channel plan, and performing the selective connecting or testing of the plurality of nodes by conducting the test plan.

The Office Action references that Burns et al. inherently discloses a channel plan and a test plan, but these inherencies are not applicable to the invention of Burns et al. relied on to anticipate the presently claimed invention, and correspondingly, do not relate to the presently claimed channel and test plans. Burns et al. briefly explains the operation of cable modems when there are multiple modems in a system, but Burns et al. only covers the testing of a singular modem in that system and fails to disclose the particularly claimed channel plan and/or test pattern used to perform the claimed testing. Thus, though Burns et al. explains the interoperation of different cable modems, e.g., col. 1, line 38 through col. 2, line 36, Burns et al. fails to disclose or suggest the claimed testing based on the claims test plan, which is further based on the channel plan.

Lastly, the cable modem testing performed in Burns et al. is not performed based on the claimed channel plan or test plan, but rather it is based on a singular identified cable modem. Burns et al. explains that many different cable modems will occupy the same channel, with the differences between separate cable modem information being identified by IDs and pre-assigned time slots. See Burns et al. in col. 2, line 65 through col. 2, line 36. Further, any selectable multiple modem based testing of multiple cable modems would not be based on a channel plan, but will have to rely on a separate identifier or time slot to distinguish one particular cable modem from another cable modem in the same channel.

Thus, for at least the above, it is respectfully submitted that Burns et al. fails to disclose or suggest all the claimed features of independent claims 1, 15 and 16. Similarly, it is respectfully submitted that claims depending from independent claims 1, 15 and 16 are also in proper condition for allowance.

#### CONCLUSION

There being no further outstanding objections or rejections, it is submitted that the application is in condition for allowance. An early action to that effect is courteously solicited.

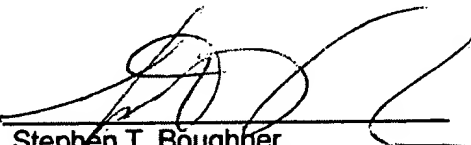
Finally, if there are any formal matters remaining after this response, the Examiner is requested to telephone the undersigned to attend to these matters.

Respectfully submitted,

Date:

9/24/04

By:

  
Stephen T. Boughner  
Registration No. 45,317